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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,469	04/09/2001	Carlos A. Silva JR.	06975-125001	6757

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/828,469

Applicant(s)

SILVA ET AL.

Examiner

Dominic D. Saltarelli

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-29.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The incorporation of the limitations of claim 26 into claim 20 raises a new issue, because claim 26 depends off of claim 1 only.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claim 1, applicant argues that Bournas does not teach "ranked categories of context information associated with a television program being viewed by the viewer" (applicant's remarks, page 8, last paragraph). As previously indicated, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In this case, Yen teaches the claimed limitations regarding categories of context information used in making intelligent decisions for selecting context information (in col. 9, lines 36-44, Yen discloses "In a memory, the background element 121 of the information multiplexer 120 records a set of preferences for the recipient indicating the types of information the recipient is likely to be interested in.") Thus Yen teaches the intelligent decision is based on types, or categories, of information. Further, Yen discloses that the selection process is based upon those types [categories] of information associated with currently viewed programming (col. 12, lines 10-15). As such, the only limitation not expressly met by Yen is the use of a hierarchial search method. And it is the Bournas reference which remedies this deficiency by teaching an efficient hierarchial searching method for searching data structures, wherein a hierarchial data structure is a ranking system of categories and subcategories used to classify and arrange data.

Regarding claim 27, applicant argues that Yen and Bournas do not teach the ranked categories comprises one or more of an episode of the television program, a name of the television program, and a broadcaster of the television program (applicant's remarks, page 10, first paragraph). However, as taught by Yen in col. 12, lines 20-29, the intelligent decision process looks for a particular television show, thus the category in consideration is at least the name of a television program.

Regarding claim 28, applicant argues that Yen and Bournas do not teach "ranked categories of context information associated with the viewer" as described with respect to claim 1 (applicant's remarks, page 11, first paragraph). As previously indicated, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In this case, Yen teaches the claimed limitations regarding categories of context information used in making intelligent decisions for selecting context information (in col. 9, lines 36-44, Yen discloses "In a memory, the background element 121 of the information multiplexer 120 records a set of preferences for the recipient indicating the types of information the recipient is likely to be interested in.") Thus Yen teaches the intelligent decision is based on types, or categories, of information. Further, Yen discloses that the selection process is based upon those types [categories] of information associated with viewer preferences (Yen, col. 11 line 66 - col. 12 line 9). As such, the only limitation not expressly met by Yen is the use of a hierarchial search method. And it is the Bournas reference which remedies this deficiency by teaching an efficient hierarchial searching method for searching data structures, wherein a hierarchial data structure is a ranking system of categories and subcategories used to classify and arrange data.



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